

April 15, 2008

Viking Stone Corporation
P.O. Box 114
Portsmouth, Rhode Island 02871

Re: Tiverton Zoning Board of Review, Map 2-9, Plat/Block 92, Card/Lot 1A & 1Z

The following is the decision of the Town of Tiverton Zoning Board of Review (hereinafter the "Board") from a Special Meeting / Show Cause Hearing held pursuant to Chapter 38, Article III, Section 38-57, on April 8, 2008, regarding a Decision of the Building Official that you have violated the terms and conditions of your license / permit to conduct quarrying and gravel operations on property located at 1635 Fish Road, Tiverton, Rhode Island, at Map 2-9, Plat/Block 92, Card/Lot 1A & 1Z (the "Premises") in a R60 zone.

During the public hearing for which due notice was given and a record kept, the Board heard testimony and received evidence from the parties and the public. After consideration of the evidence entered into the record, the Board found sufficient evidence to show that you are in violation of the requirements of Chapter 38, Article III and to justify the revocation of your quarrying and gravel operation license/permit for the Premises.

The Board found the testimony of and documentary evidence presented by the Building Official, the Director of Public Works and the Police Chief credible that there exists insufficient drainage of water on the Premises in violation of Chapter 38-62 resulting in the collection and stagnation of surface and ground waters and flooding events that creates a public safety hazard on Fish Road. This drainage runoff from the Premises is causing damage to Fish Road by eroding earth under Fish Road and is having a detrimental impact on the abutters by flooding the surrounding property. The Board also finds that the Licensee has violated the cease and desist orders issued by the Building Official by continuing operations and by attempting to blast an area of the Premises.

The Board also heard testimony, and received documentary evidence, from many members of the public, who testified that for at least the past five years there was significant flooding and stagnant water on the Premises resulting in flooding of and standing water on Fish Road creating dangerous driving conditions and which caused the flooding of surrounding properties. The Board finds credible the testimony and documentary evidence presented by the public.

The Board also heard testimony and received documentary evidence from the Licensee, who presented Stetson Eddy, Esquire, William Smith, Civil Engineer, and Frank Mello. The Licensee via the testimony of its witnesses acknowledged that a drainage problem exists on the Premises, that there is flooding on Fish Road and the

surrounding properties, that these drainage problems have existed since 2003, and that the Licensee has been attempting to correct the flooding and drainage problems related to the Premises since that time.

The Board finds not credible the Licensee's position that they have been addressing the drainage problem on the Premises and more time is needed. Although the Licensee acknowledges the ongoing drainage problem, the Board finds its actions in addressing the problem wholly inadequate and finds a continued unwillingness and lack of motivation by the Licensee to take the actions requisite to address the flooding and drainage problems. Despite acknowledging the flooding and drainage problems for the past five years, the Licensee presented testimony by Mr. Smith that the Licensee retained him only in May 2007, and for the intervening eleven months no drainage calculations, analysis, or plans have been developed or even begun. Mr. Smith testified that the only action he has undertaken was to order topography photographs of the Premises, which has yet to be completed. The Board finds not credible the testimony of Mr. Smith that eleven months is needed for the Licensee to receive the topography photographs, which he testified is a prerequisite to beginning the engineering work to design a drainage plan, as Mr. Smith testified the topography photographs could be produced in approximately two weeks. The Board finds the Licensee has known of the flooding and drainage problems and it has failed continually to address these problems on the Premises. Despite acknowledging these flooding and drainage problems for the past five years, the Board finds the Licensee has shown a disregard for the public safety and welfare by not undertaking the necessary actions to design a drainage plan and apply for the requisite regulatory approvals and permits to implement such a plan. The Board finds the flooding and drainage conditions on the Premises, the public safety hazards being created, due to its detrimental impact on Fish Road and surrounding properties rise to the level of constituting a public nuisance.

Based on the foregoing, the Board voted unanimously to revoke your quarrying and gravel operation license/permit.

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review

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